



Senate

General Assembly

January Session, 2005

File No. 525

Senate Bill No. 1303

Senate, April 26, 2005

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING THE LIS PENDENS STATUTE AND THE VALIDATION OF CERTAIN CONVEYANCES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (d) of section 47-36aa of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2005*):

4 (d) Defect where fiduciary conveyed to self. Any recorded deed,
5 mortgage, lease, release, assignment or other instrument made for the
6 purpose of conveying, leasing, mortgaging or affecting any interest in
7 real property in this state, [recorded after January 1, 1997,] which
8 instrument is executed by a fiduciary, but which instrument is
9 voidable because the fiduciary is the grantee, mortgagee, leasee,
10 releasee or assignee designated in such instrument, is as valid as if it
11 had been executed without the defect unless an action is commenced
12 to avoid and set aside such instrument and a notice of lis pendens is
13 recorded in the land records of the town or towns where the

14 instrument is recorded within ten years from the date of recording of
15 such instrument.

16 Sec. 2. Subsection (c) of section 52-325 of the general statutes is
17 repealed and the following is substituted in lieu thereof (*Effective*
18 *October 1, 2005*):

19 (c) Notwithstanding the provisions of subsection (a) of this section,
20 in any action except a suit to foreclose a mortgage or other lien, no
21 recorded notice of lis pendens shall be valid or constitute constructive
22 notice thereof unless the party recording such notice, not later than
23 thirty days after such recording, serves a true and attested copy of the
24 recorded notice of lis pendens upon the owner of record of the
25 property affected thereby. The notice shall be served upon the owner,
26 if [he] the owner resides in the same town in which the real property is
27 located, by any proper officer or indifferent person, by leaving a true
28 and attested copy of such recorded notice with [him] the owner or at
29 [his] the owner's usual place of abode. If the property owner does not
30 reside in such town, such copy may be served by any proper officer or
31 indifferent person, by mailing such copy, by registered or certified
32 mail, to the owner at the place where [he] the owner resides. If such
33 copy is returned unclaimed, notice to such property owner shall be
34 given by publication in accordance with the provisions of section 1-2. If
35 the property owner is a nonresident individual [,] or foreign
36 partnership, or [his or its] the executor or administrator of the
37 nonresident individual or foreign partnership, the notice may be
38 served upon the Secretary of the State as provided in subsection (c) of
39 section 52-59b and if the property owner is a foreign corporation, the
40 notice may be served as provided in section 33-519 or 33-929. When
41 there are two or more property owners of record, a true and attested
42 copy of such recorded notice shall be so served on each property
43 owner. A certified copy of the recorded notice of lis pendens, with the
44 return of the person who served it, endorsed thereon, shall be returned
45 to the party who recorded [such] the notice who shall file a copy of the
46 return with the clerk of the court in which the action is brought. The
47 clerk shall include the copy in the record.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2005</i>	47-36aa(d)
Sec. 2	<i>October 1, 2005</i>	52-325(c)

JUD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes minor changes to the law concerning real estate conveyances that would not affect the state, quasi-governmental entities or municipalities.

OLR Bill Analysis

SB 1303

**AN ACT CONCERNING THE LIS PENDENS STATUTE AND THE
VALIDATION OF CERTAIN CONVEYANCES****SUMMARY:**

The bill validates a recorded mortgage, lease, release, assignment, or other document conveying or otherwise affecting a real estate interest from a fiduciary to himself recorded before January 2, 1997 unless someone has initiated a legal proceeding to set aside the transfer and recorded a *lis pendens* notice on the land records within 10 years after the document was recorded. (A *lis pendens* is a notice filed on the land records, which advises that a lawsuit affecting real estate is pending against the owner of that property. Once recorded, it serves as notice to anyone who subsequently acquires any interest in the property and binds him to the lawsuit's outcome.)

Current law does the same thing for such documents recorded after January 1, 1997.

Under current law, a recorded notice of *lis pendens* is invalid and does not constitute constructive notice of the lawsuit unless the person recording the notice serves a true and attested copy of it on the property owner within 30 days after recording it. The bill eliminates the requirement to serve a copy of the *lis pendens* in foreclosure actions. Thus, a recorded notice of *lis pendens* involving a foreclosure of a mortgage or other lien would be valid and bind those who subsequently acquire an interest in the property even if the foreclosing party did not serve the property owner with a copy of the *lis pendens*.

Finally, the bill requires that the party that recorded the *lis pendens* notice file a copy of the papers showing that the notice was served on the property owner with the clerk of the court in which the lawsuit that affects the property is pending. The bill requires the clerk to include a copy in the court record.

EFFECTIVE DATE: October 1, 2005

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report

Yea 37 Nay 0